



General Assembly

January Session, 2001

***Raised Bill No. 6936***

LCO No. 4378

Referred to Committee on Human Services

Introduced by:  
(HS )

***AN ACT ENSURING THAT PUBLIC MONEYS ALLOCATED FOR  
HEALTH CARE ARE EXPENDED FOR SUCH CARE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (a) For the purposes of this section, the term  
2       "covered employer" includes: (1) A person providing residential or  
3       educational services to children in the custody or under the  
4       guardianship of the Department of Children and Families; (2) an  
5       organization establishing, expanding or maintaining mental health  
6       services pursuant to section 17a-453a, 17a-468, 17a-476 or 17a-676 of  
7       the general statutes; (3) a nonprofit organization offering services for  
8       drug-dependent or alcohol-dependent persons pursuant to section  
9       17a-676 of the general statutes; (4) a psychiatric clinic or a child  
10      guidance clinic, as defined in section 17a-20 of the general statutes; (5)  
11      a day treatment center, as defined in section 17a-22 of the general  
12      statutes; (6) a person receiving a grant for programs for the treatment  
13      and prevention of child abuse and neglect or for juvenile criminal  
14      diversion pursuant to section 17a-49 of the general statutes; (7) a  
15      community-based program for children and adults with mental  
16      retardation pursuant to section 17a-217 of the general statutes; (8) a

17 community-based residential facility for persons with mental  
18 retardation pursuant to section 17a-217 of the general statutes; (9) a  
19 community-based residential facility for persons with mental  
20 retardation established pursuant to section 17a-218 of the general  
21 statutes; (10) a program of employment opportunities and day services  
22 for adults with mental retardation pursuant to section 17a-226 of the  
23 general statutes; (11) a private residential facility licensed to provide  
24 care or treatment for persons with mental retardation or autistic  
25 persons pursuant to section 17a-227 of the general statutes; (12) a  
26 program for which rates are paid by the state pursuant to section 17b-  
27 245 or 17b-342 of the general statutes; and (13) a recipient of  
28 reimbursement under section 17b-340 of the general statutes. The term  
29 does not include an acute care general hospital.

30 (b) On and after July 1, 2001, the compensation paid by contract or  
31 agreement with the state or any of its agents to a covered employer  
32 shall include the increased costs of staffing requirements, wages and  
33 benefits negotiated under a collective bargaining agreement effective  
34 on or after April 1, 2001. In order to calculate the amount of the  
35 increase in Medicaid reimbursement or other payments made by the  
36 state due to a covered employer, said employer shall submit a signed  
37 collective bargaining agreement to the state.

38 (c) No funds from the state shall be used by any covered employer  
39 for any activity intended to assist, promote, deter or discourage union  
40 organizing. If any covered employer engages in any activity to assist,  
41 promote, deter or discourage union organizing by an employee who  
42 provides services, directly or indirectly, to Medicaid recipients or  
43 recipients of other state-funded services during a time for which the  
44 employee is paid by the employer, there is established an irrebuttable  
45 presumption that state funds paid for that percentage of the cost of  
46 such activity equal to the percentage of a covered employer's total  
47 revenues paid by the state for the fiscal year during which such  
48 activity occurred.

49 (d) Any person may file a complaint with the funding agency if he  
50 or she believes that a covered employer is expending funds in violation  
51 of the provisions of subsection (c) of this section. Upon the filing of  
52 such a complaint, the agency shall, within seven days, notify the  
53 covered employer that it shall, within ten days, provide records  
54 sufficient to show that no state funds were used in violation of the  
55 provisions of said subsection. If a covered employer engages in  
56 meetings with employees during work time to assist, promote, deter or  
57 discourage union organizing, such records shall include all  
58 information relative to each such meeting, including the date, time and  
59 identity of the attendees.

60 (e) A civil action for a violation of the provisions of subsection (c) of  
61 this section may be brought by the Attorney General or by any tax  
62 payer, for injunctive relief, damages, civil penalties and other  
63 appropriate equitable relief. All damages and civil penalties collected  
64 pursuant to this subsection shall be deposited in the General Fund.

65 (f) Before filing an action under subsection (e) of this section, a  
66 taxpayer shall give written notice to the Attorney General of the  
67 alleged violation and the intent to bring suit. Such notice may not be  
68 given until twenty days after a complaint is filed with the funding  
69 agency. Such notice shall include a copy of the complaint filed with the  
70 funding agency and its disposition, if any. If the Attorney General  
71 commences a civil action for the same alleged violation within sixty  
72 days of receiving the notice, a separate action by the taxpayer shall be  
73 barred. Any taxpayer may intervene as a plaintiff in any action  
74 brought by the Attorney General under this section. A prevailing  
75 plaintiff in any action filed under the provisions of subsection (e) of  
76 this section is entitled to recover reasonable attorney's fees and costs. A  
77 prevailing taxpayer intervenor who makes a substantial contribution  
78 to an action filed under subsection (e) of this section is entitled to  
79 recover reasonable attorney's fees and costs.

80 (g) A covered employer is liable to the state for the amount of any

81 funds expended in violation of the provisions of subsection (c) of this  
82 section plus a civil penalty equal to twice the amount of such funds. If  
83 a covered employer expended funds in violation of the provisions of  
84 subsection (c) of this section, such employer shall be liable to the state  
85 only for that percentage of the cost of the activities intended to assist,  
86 promote, deter or discourage union organizing which represents the  
87 percentage of the employer's total revenues paid by the state in the  
88 fiscal year during which such activities occurred and shall not be  
89 subject to a civil penalty.

90 (h) Any individual who knowingly authorizes the use of state funds  
91 in violation of the provisions of subsection (c) of this section shall be  
92 liable to the state for the amount of such funds. Any individual who  
93 knowingly violates the provisions of subsection (c) of this section shall  
94 be personally liable to the state in the amount of one thousand dollars  
95 for each violation.

96 (i) For purposes of this section, any expense, including legal and  
97 consulting fees and salaries of supervisors and employees, incurred for  
98 research or preparation for, planning or coordination of, or carrying  
99 out, an activity to assist, promote, deter or discourage union  
100 organizing shall be treated as paid or incurred for such activity.

101 Sec. 2. This act shall take effect from its passage.

***Statement of Purpose:***

To ensure that public moneys allocated for health care are expended for such care; to ensure maximum staff flexibility to care for Medicaid beneficiaries and recipients of other state-funded services; to discourage campaigning by covered employers to assist, promote, deter or discourage union organizing during work time, and to provide for the adjustment of rates based on collective bargaining.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*